

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In Re:)
) Case No. 05-74493
Bradley T. Smith,) Chapter 13
) Judge Hoffman
Debtor.)

**UNITED STATES OF AMERICA’S MOTION FOR
LEAVE TO FILE OBJECTION TO CONFIRMATION
OUT OF RULE PURSUANT TO L.B.R. 3015-3**

The United States of America, on behalf of the Internal Revenue Service (“the Service”), hereby moves this Court for leave to file an Objection to Confirmation of the Debtor’s Plan out-of-time, pursuant to Local Bankruptcy Rule 3015-3(a).

IN SUPPORT OF THE MOTION, the United States submits as follows:

1. The Service was not scheduled or otherwise notified of the commencement of this case in time for it to file a Proof of Claim within the period set by Fed. R. Bankr. P. 3002(c), or to otherwise participate in this proceeding.¹
2. The Service believes Debtor is now attempting to affect the IRS’ claim through multiple amendments to his Schedules, and representations to the Court regarding the amount (or non-existence) of his federal tax liabilities. The Service further believes these representations may be incorrect.
3. The actions of Debtor, and the amount of Debtor’s federal tax liabilities, if paid through the Plan, affects the feasibility of the Plan, and whether it would be proper for the Court to confirm the Plan.

¹ The United States has a “claim” against the debtor regardless of whether a Proof of Claim has been filed. 11 U.S.C. § 101(5).

4. As such, the Service submits it should be heard as to whether Debtor's Plan should be confirmed.

5. Contemporaneously with the filing of this Motion, the Service is submitting and serving an Objection to Confirmation which asserts meritorious grounds for denying confirmation in this case. The movant requests this Objection be accepted for filing on the grounds that no party will be unfairly prejudiced by the granting of this Motion, the lack of timely and appropriate notice of this case to the United States, and the interests of justice favor allowing the United States to participate in the confirmation process.

WHEREFORE, the United States respectfully requests that its Motion for Leave to File Objection to Confirmation be granted.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 1, 2007, service of the foregoing **UNITED STATES OF AMERICA'S MOTION FOR LEAVE TO FILE OBJECTION TO CONFIRMATION OUT OF RULE** was made by electronic filing with the Clerk of the United States Bankruptcy Court, using the CM/ECF system, which will send notification of such filing to all registered CM/ECF participants in this case, including the parties listed below:

W. Mark Jump, Counsel for Debtor

Office of U.S. Trustee

Frank Pees, Chapter 13 Trustee

It is hereby certified that on the same date, copies of the foregoing pleading were served by United States Postal Service, First Class, postage prepaid, to the following:

Bradley Smith
Debtor.
26 Nottingham Road
Columbus, OH 43215

/s/ Andrew M. Malek
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